

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER:

RAUL O MARCO LABOY
Debtor(s)

FIRSTBANK PUERTO RICO
Movant

CASE NO.: 17-03174 (BKT)

CHAPTER 13

(X) An action against the State
under Title 11 USC §1307(c) (1) and
§1307(c) (6), Title 11 USC §1326

MOTION TO DISMISS

TO THE HONORABLE COURT:

Comes now Movant, **FIRSTBANK PUERTO RICO**, through its undersigning attorney, and very respectfully ALLEGES, STATES and PRAYS:

1. This Honorable Court have jurisdiction under Title 28 USC §1334, and venue under Title 28 USC §1408, and particularly regarding this matter under Title 11 USC §1307(c) (1), (4) and (6), on Conversions and Dismissals, and Title 11 USC §1326, on Payments.
2. Debtor filed a bankruptcy case under chapter 13 back on MAY 3, 2017. See, Bkcy Dck no 1
3. MOVANT, standing to address this court is ascertained as filed a secure lien proof of claim, on a personal security loan, with an outstanding debt of \$9,359.25, under account no 0919. See, Clm. Reg. 3
4. As of to July 6, 2016, and prior to the Confirmation Hearing, debtor(s) already have the following installments owed to the chapter 13: \$288.00, for ONE (1) months in arrears. This evidences none compliance with the requirements under 11 USC §1325 (a) (6) on feasibility test, which is a confirmation requirement under 11 USC §1325 (a) (1) on compliance with all her duties under the Code, 11 USC §1326 (a) (1) (A) on compliance with payments amounts proposed under the plan not later than 30 days after the date of filing. See, Exhibit A
5. Under the terms of the proposed plan dated June 26, 2017 debtor(s) should have started to make continues direct payments since June 3, 2017, and as evidenced herein; the debtor(s) have failed to do so. See, Bkcy Dck no 1 and 17
6. Pursuant to the Service Members Civil Relief Act: - the data banks of the Department of the Defense Manpower Data Center confirmed that the debtor(s) is (are) not member(s) of the Uniformed Services (US Armed Forces, Navy, Marine Corps, Air Force, NOAA, Public Health, and Cost Guard.) See, Exhibit B

For the reasons stated above, MOVANT respectfully request from this Court to enter an order dismissing the present case pursuant Title 11 USC §1307(c)(1) on *Unreasonable delay by debtor that is prejudicial to Creditors, (5) denial of confirmation of a plan under 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan, 11 USC §1326 (a) (1) Unless the court orders otherwise, the debtor shall commence making the payments proposed by a plan within 30 days after the plan is filed,*

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payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, and (6) on Material default by the debtor with respect to a term of a confirmed plan, and Title 11 USC §1324 (b) on hearing of confirmation that shall to be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341 (a). See also, on Dismissal for cause: In re Howard, 284 F3d 320 (1st Cir. 2002) and In re Roberts, 279 F3d 91 (1st Cir. 2002)

The aforementioned request of dismissal is based on congressional intent to prevent bankruptcy abuse

NOTICE

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this motion has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, this motion will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

Puerto Rico Local Bankruptcy Rule 9013-1(h)

In San Juan, Puerto Rico, on July 14, 2017

CERTIFICATE OF SERVICE

I hereby certify that a copy was served by CM/ECF at the authorized address: - to all creditors, - to Atty. Alejandro Oliveras // Atty. José Carrión Morales, as Chapter 13 Trustee, and - to the attorney of the debtor(s) BEATRIZ HERNANDEZ TORO, and to debtor(s) RAUL O MARCO LABOY, by regular mail at the address on record, 350 ROAD 844, APT 5503, COND ALTURAS DEL BOSQUE, SAN JUAN, PUERTO RICO 00926.

BY: /s/ María M. Benabe Rivera
María M. Benabe Rivera
Attorney for Movant - US - DC 208906
Maricarmen Colón Díaz - US - DC 211410
FIRSTBANK Puerto Rico
Centro de Servicios al Consumidor - Código 248
1130 Muñoz Rivera Ave., Rio Piedras, P R
PO Box 9146, San Juan, PR 00908-0146
maria.benabe@firstbankpr.com
(787)729-8135 / (787)729-8276 / [Rev.07/06/2016]

PAYMENT SCHEDULES - CASE 17-03174

Printer Friendly 

Which Debtor: **RAUL OSCAR MARCO LABOY**

Schedule Number: **1**

Start Date	Number Periods	Amount	How Often	Who's Paying	Order Date	Action
6/2/2017	1.00	\$272.00	MONTHLY	RAUL OSCAR MARCO LABOY	6/27/2017	
7/2/2017	59.00	\$288.00	MONTHLY	RAUL OSCAR MARCO LABOY	6/27/2017	
6/2/2022	end of plan	\$0.00	MONTHLY	RAUL OSCAR MARCO LABOY	6/27/2017	



Click to View Debtor schedules.

Breakdown for Combined Schedules

Period	Date (Month/Year)	Payment Due	Payment Received	Amount Due
1	6/2017	\$272.00	\$272.00	\$0.00
2	7/2017	\$288.00		\$288.00

Total Delinquent Amount: \$288.00

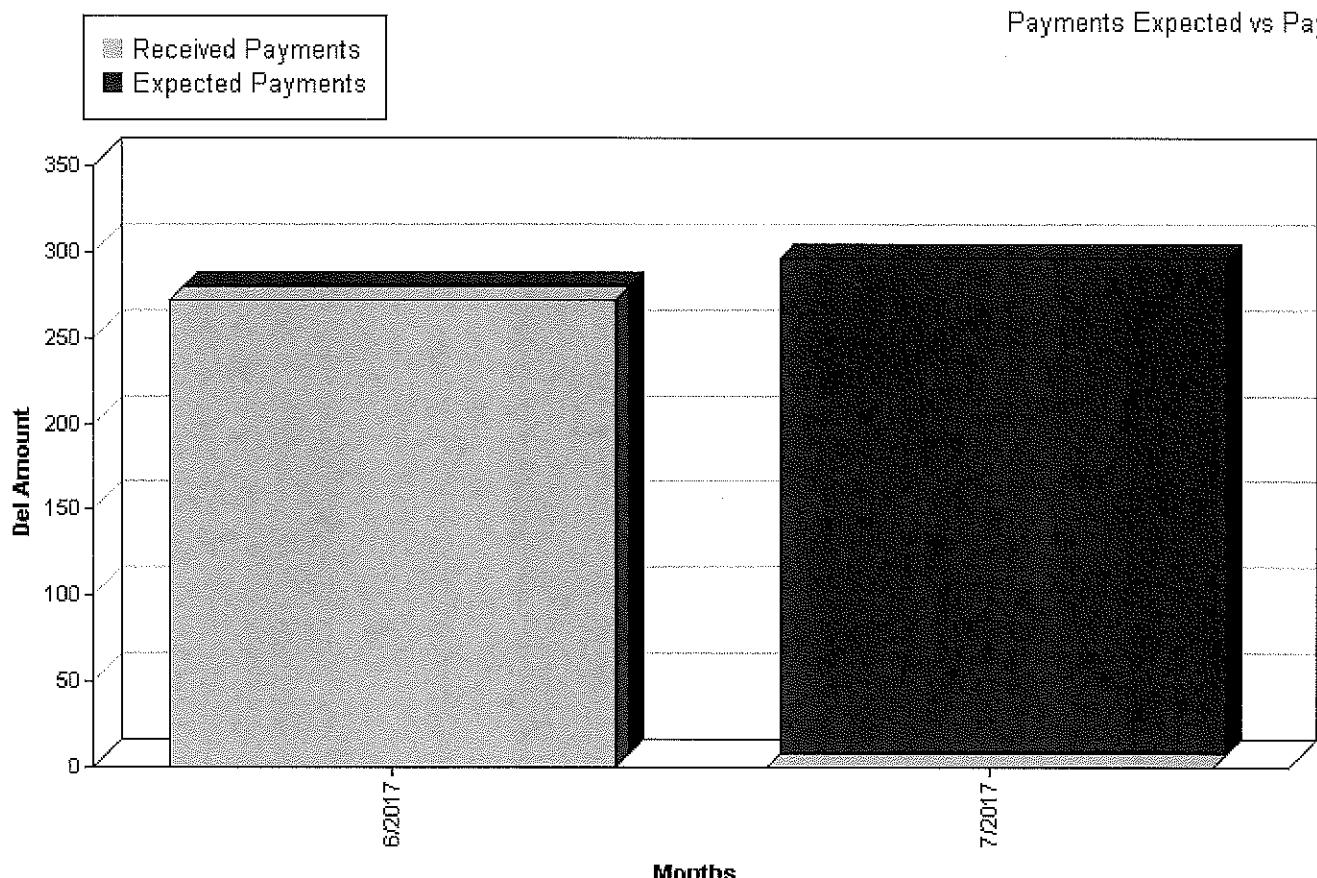


Exhibit A



Status Report
Pursuant to Servicemembers Civil Relief Act

SSN:

Birth Date: Dec-XX-1976

Last Name: MARCO - LABOY

First Name: RAUL

Middle Name:

Active Duty Status As Of: Jul-08-2017

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA

This response reflects the individuals' active duty status based on the Active Duty Status Date

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA

This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA

This response reflects whether the individual or his/her unit has received early notification to report for active duty

NOTE:
Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty. HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.

Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Arlington, VA 22350

Open: [redacted]
File No.: [redacted]
DOL: [redacted]
DDON: [redacted]
DODSA: [redacted]
DOLR: [redacted]
DOLB: [redacted]
DOLC: [redacted]
DOLD: [redacted]
DOLF: [redacted]
DOLG: [redacted]
DOLH: [redacted]
DOLI: [redacted]
DOLJ: [redacted]
DOLK: [redacted]
DOLL: [redacted]
DOLM: [redacted]
DOLN: [redacted]
DOLP: [redacted]
DOLQ: [redacted]
DOLR: [redacted]
DOLS: [redacted]
DOLT: [redacted]
DOLU: [redacted]
DOLV: [redacted]
DOLW: [redacted]
DOLX: [redacted]
DOLY: [redacted]
DOLZ: [redacted]

Label Matrix for local noticing

0104-3

Case 17-03174-BKT13

District of Puerto Rico

Old San Juan

Thu Jul 6 09:03:36 AST 2017

Chase Card

Attn: Correspondence Dept

PO Box 15298

Wilmington, DE 19850-5298

BPPR AS SERVICING AGENT FOR ORIENTAL BANK

PO BOX 11750

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SAN JUAN, PR 00910-2850

US Bankruptcy Court District of P.R.

Jose V Toledo Fed Bldg & US Courthouse

300 Recinto Sur Street, Room 109

San Juan, PR 00901-1964

Comenitycap/gordons

PO Box 182120

Columbus, OH 43218-2120

Comenitycb/gordon

Comenityc Bank

PO Box 182125

Columbus, OH 43218-2125

Costco Go Anywhere Citicard

Centralized Bk/Citicorp Credit Card Svcs

PO Box 790040

Saint Louis, MO 63179-0040

DEPARTAMENTO DE HACIENDA

235 AVE. ARTERIAL HOSTOS STE 1504

BANKRUPTCY SECTION

SAN JUAN, PR 00918-1451

Dept of Ed/582/Nelnet

Attn: Claims/Bankruptcy

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Lincoln, NE 68501-2505

Dept of Education/Neln

3015 S Parker Rd

Aurora, CO 80014-2904

Dsmh Macys

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Mason, OH 45040-8218

FIRST BANK

CONSUMER SERVICE CENTER

BANKRUPTCY DIVISION (CODE 248)

PO BOX 9146

SAN JUAN PR 00908-0146

FIRSTBANK OF PUERTO RICO

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1130 Ave Munoz Rivera

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First Bank Puerto Rico

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Oriental Bank

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Quantum3 Group LLC as agent for

MOMA Funding LLC

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Synchb/Care Credit

C/o

PO Box 965036

Orlando, FL 32896-5036

Synchb/amazon

PO Box 965015

Orlando, FL 32896-5015

Synchrony Bank/ Hh Gregg

Attn: Bankruptcy

PO Box 956060

Orlando, FL 32896-5060

Synchrony Bank/Amazon

Attn: Bankruptcy

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Orlando, FL 32896-5060

U.S. Department of Education C/O Nelnet

121 S 13 St

Suite 201

Lincoln, NE 68508-1911

Visa Dept Store National Bank/Macy's

Attn: Bankruptcy

PO Box 8053

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COND ALTURAS DEL BOSQUE

SAN JUAN, PR 00926-7854